

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK

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ROBERT BUTLER,

Petitioner,

v.

Civil Action No.

9:13-CV-0375 (LEK/DEP)

BRUCE YELICH,

Respondent.

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APPEARANCES:

OF COUNSEL:

FOR PETITIONER:

ROBERT BUTLER, *Pro Se*  
Montgomery County Jail  
200 Clerk Drive  
P.O. Box 432  
Fultonville, NY 12072

FOR RESPONDENT:

HON. ERIC T. SCHNEIDERMAN  
New York State Attorney General  
The Capitol  
Albany, NY 12224

LISA E. FLEISCHMANN, ESQ.  
Assistant Attorney General

DAVID E. PEEBLES  
U.S. MAGISTRATE JUDGE

## REPORT AND RECOMMENDATION

Petitioner Robert Butler commenced this proceeding on April 4, 2013, pursuant to 28 U.S.C. § 2241, requesting habeas relief from the court.<sup>1</sup> Specifically, Butler's petition requests the removal of a detainer, filed in connection with a criminal matter pending in this court, with the New York State Department of Corrections and Community Supervision ("DOCCS"), in whose custody Butler has been during the times relevant to his habeas claims.

By letter dated July 29, 2013, respondent's counsel advised the court that petitioner was paroled by the DOCCS on July 22, 2013, and will not be returning to DOCCS custody. Dkt. No. 8. Accordingly, it appears that Butler's petition is now moot.

By text order dated July 19, 2013, petitioner was directed to advise the court, on or before August 13, 2013, as to his position concerning whether, in view of the foregoing, his petition should be dismissed. That text order was served upon the petitioner through Randi Juda Bianco, Esq., his attorney representing him in a separate criminal matter pending in this court. Despite that directive, petitioner has provided nothing to the court to indicate his

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<sup>1</sup> According to information received by the court, petitioner is currently in federal custody. Dkt. No. 8. The U.S. Marshals Service has advised that Butler is currently housed in the Montgomery County Jail, awaiting transport to a Bureau of Prisons facility. The clerk is respectfully directed to update the docket sheet to reflect this change.

opposition to dismissal of the instant proceeding.

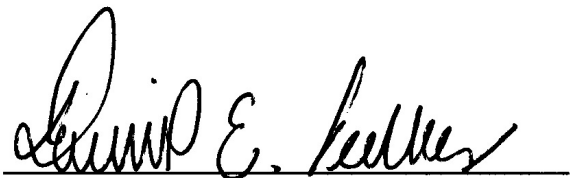
Based upon the foregoing, and the court's finding that the relief sought by the petitioner is no longer applicable, it is hereby respectfully

RECOMMENDED that the petition in this matter be DISMISSED as moot.

NOTICE: Pursuant to 28 U.S.C. § 636(b)(1), the parties may lodge written objections to the foregoing report. Such objections must be filed with the clerk of the court within FOURTEEN days of service of this report. FAILURE TO SO OBJECT TO THIS REPORT WILL PRECLUDE APPELLATE REVIEW. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 6(d), 72; *Roldan v. Racette*, 984 F.2d 85 (2d Cir. 1993).

It is hereby ORDERED that the clerk of the court serve a copy of this report and recommendation upon the parties in accordance with this court's local rules.

Dated: August 19, 2013  
Syracuse, New York

A handwritten signature in black ink, appearing to read "David E. Peebles", written over a horizontal line.

David E. Peebles  
U.S. Magistrate Judge